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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,887	01/26/2004	Yasuhiro Ijiri	71275	9708
23872	7590	11/18/2004	EXAMINER	
MCGLEW & TUTTLE, PC 1 SCARBOROUGH STATION PLAZA SCARBOROUGH, NY 10510-0827			WONG, STEVEN B	
			ART UNIT	PAPER NUMBER
			3711	

DATE MAILED: 11/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

03

Office Action Summary	Application No. 10/764,887	Applicant(s) IJIRI, YASUHIRO	
	Examiner Steven Wong	Art Unit 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-16 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/26/04</u> | 6) <input type="checkbox"/> Other: ____ |

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Specification

1. The disclosure is objected to because of the following informalities: the specification is objected to because the reference to the claims within the body of the specification is improper (see page 3, lines 18).

Claim Objections

2. Claims 3-7, 11 and 14-16 are objected to because of the following informalities: In claim 11, the language "said slits" lacks a proper antecedent basis.

In claims 3 and 14-16, the language "it" and "its" is unclear in positively referring to a particular structure of the claimed invention. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 1 and 3 are rejected under 35 U.S.C. 102(a) as being anticipated by Echaves (6,494,796). Regarding claim 1, Echaves discloses a golf tee (18) and support body (12) comprising a ball support section (22) having an inner section for receiving the head of the tee and a small-sized inner section (20) for holding the shaft of the tee. The cap (34) of the support body acts as a separation preventive section disposed in the upper portion of the large-sized inner section.

Regarding claim 3, Echaves includes a laterally opened section (26) for inserting the tee therein.

5. Claims 8-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Sprague (4,336,940). Regarding claims 8, 9 and 13, Sprague discloses a golf tee holder comprising ball support body (1) having a large-sized inert section (8), an insertion opening (5), a separation preventive inward projection (4) and a small-sized inner section (11) with a leg projection opening (11).

Regarding claims 10-12, note column 2, lines 23-25 stating that the body is made from a resilient material. Also, Sprague includes gaps (7) for allowing elastic deformation of the outer periphery of the body.

Regarding claims 14-16, the body of Sprague inherently provides a fulcrum about which the separation preventive sections pivot since the sections must pivot to allow the tee pass into the body. The pivoting movement inherently creates a loaded and non-loaded state for the preventive sections.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Echaves (6,494,796). Echaves provides a connection section between the upper and lower structures.

Note Figure 2 showing arms (30, 36) that form the connecting section. It would have been

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obvious to one of ordinary skill in the art to form the connecting section with a width not more than one third of the entire circumference as the applicant has not stated that this particular limitation for the dimension solves any stated purpose and it appears that the dimension shown by Echaves would accomplish similar purposes.

Regarding claims 5 and 6, it would have been obvious to one of ordinary skill in the art to form the body from an elastic material in order to prevent unwanted fracture of the device.

8. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Echaves (6,494,796) in view of Chase (3,414,268). Chase discloses that it is well known in the art of golf tees to form the ball support from a plurality of projections. It would have been obvious to one of ordinary skill in the art to form the ball support of Echaves with a plurality of projections for the reasons advanced by Chase.

Allowable Subject Matter

9. Claim 7 appears to read over the prior art of record.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Wong whose telephone number is 571-272-4416. The examiner can normally be reached on Monday through Friday 7am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Steven Wong
Primary Examiner
Art Unit 3711

SBW
November 12, 2004